

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: DATE FILED: 5/17/2024
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ROLLING STONE, LLC,

Plaintiff,

-v-

DEPARTMENT OF JUSTICE,

Defendant.
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23-cv-10741 (LJL)

MEMORANDUM &
ORDER

LEWIS J. LIMAN, United States District Judge:

Plaintiff Rolling Stone LLC (“Plaintiff” or “Rolling Stone”) brings this action against Defendant United States Department of Justice to compel compliance with the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552. Dkt. No. 15. Plaintiff seeks production of “all FBI records about Henry Kissinger,” the former U.S. Secretary of State, among other government records in which Kissinger is mentioned. *Id.*

Before the Court is Plaintiff’s motion to expedite consideration of this action pursuant to the Federal Court Civil Priorities Act, 28 U.S.C. § 1657, Dkt. No. 26, which Defendant opposes, Dkt. No. 31. For the following reasons, the motion is denied.

Under the Civil Priorities Act, district courts must expedite consideration of any habeas corpus or recalcitrant witness action and any action for temporary or preliminary injunctive relief, or any other action if good cause therefor is shown.” 28 U.S.C. § 1657(a). The statute goes on to provide: “For purposes of this subsection, ‘good cause’ is shown if a right under the Constitution of the United States or a Federal Statute (including rights under section 552 of title 5) would be maintained in a factual context that indicates that a request for expedited consideration has merit.” *Id.* The legislative history of the Act indicates that “[i]t is the intent of the Committee that the ‘good cause’ provision be liberally construed by the courts in granting requests for expedited consideration under [FOIA].” *Freedom Commc’ns Inc. v. F.D.I.C.*, 157 F.R.D. 485, 486–87 (C.D. Cal. 1994) (quoting Civil Priorities Act Report at 5784); *see also Ferguson v. F.B.I.*, 722 F. Supp. 1137, 1144 (S.D.N.Y. 1989).

To obtain expedited treatment of a FOIA action, the plaintiff must “persuasively assert that there is a special public or private interest in expeditious treatment of their case.” *Freedom Commc’ns*, 157 F.R.D. at 487 (internal citations and quotations omitted).

Plaintiff has not satisfied that standard. Although Kissinger is no doubt a figure of great historical interest and significance, Plaintiffs have not shown that the requested information

bears on current policy or legislative action. *See Brennan Ctr. for Justice at N.Y. Univ. Sch. of L. v. U.S. Dep't of State*, 300 F. Supp. 3d 540 (S.D.N.Y. 2018). In fact, Plaintiff's counsel requested the Court to grant a "lengthier-than-usual extension period" for briefing on Plaintiff's motion for summary judgment "due to existing conflicts in the respective schedules of the parties' counsel." Dkt. No. 20. That schedule provides that Plaintiff's motion for partial summary judgment to be fully briefed by June 11, 2024. *Id.* Having granted itself a healthy period of time to brief the motion for partial summary judgment, Plaintiff offers no reason why its case should jump the queue over the equally important cases on the Court's docket.

For the foregoing reasons, Plaintiff's motion is DENIED.

The Clerk of Court is respectfully directed to close Dkt. No. 26.

SO ORDERED.

Dated: May 17, 2024
New York, New York

A handwritten signature in black ink, appearing to read "L. Liman", is written over a horizontal line.

LEWIS J. LIMAN
United States District Judge